



McDonnell Boehnen Hulbert & Berghoff
Law Offices

Fax transmittal

To Examiner Beisner
Company U.S. Patent Office
Fax (703) 872-9084
Phone
Pages, with cover 10
Re

Date February 6, 2002
From Amir Penn
Direct (312) 913-2128
Email penn@mbhb.com
C/M 89/183

Examiner Beisner,

Enclosed is a copy of the response to the Notice of Improper Request for Continued Examination. If you have any questions, do not hesitate to contact me.

Amir Penn

300 South Wacker Drive 312 913 0001 phone
Chicago, Illinois 60606-6709 312 913 0002 fax
www.mbhb.com

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 98,714)

In re Application of:

David Baunoch, et al.

Serial No.: 09/212,367

Filed : December 15, 1998

For: METHOD AND APPARATUS FOR AUTOMATED
REPROCESSING OF TISSUE SAMPLES

Group Art Unit: 1623

Examiner: R. Gitomer

Commissioner of Patents
Washington, D.C. 20231**TRANSMITTAL LETTER**

Dear Sir:

In regard to the above-identified patent application:

1. We are transmitting herewith the attached Response to Notice of Improper Request for Continued Examination (RCE), Response to Office Action Dated July 17, 2001, and Return Receipt Postcard.

2. With respect to additional fees:

 x A. No additional fees are required.

 x B. Please charge any additional fees or credit overpayments to the Deposit Account No. 13-2490. A duplicate copy of this sheet is enclosed.

3. x CERTIFICATE UNDER 37 C.F.R. §1.8 (FIRST CLASS MAIL): The undersigned hereby certifies that this Transmittal Letter and the document(s) as described in paragraph 1 hereinabove, are being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to Commissioner for Patents, Washington, D.C. 20231, on this 17th day of January, 2002.

DATED: January 17, 2002

BY:

Amir N. Penn

Registration No. 40,767

McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive, 32nd Floor
Chicago, Illinois 60606
(312) 913-0001

Received from < > at 2/6/02 2:42:04 PM [Eastern Standard Time]

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 98,714)**

In re Application of:)

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Filed : December 15, 1998)

Examiner: R. Gitomer

For: METHOD AND APPARATUS FOR
AUTOMATED REPROCESSING OF
TISSUE SAMPLES)Asst. Commissioner for Patents
Washington, DC 20231**RESPONSE TO NOTICE OF IMPROPER
REQUEST FOR CONTINUED EXAMINATION (RCE)**

Dear Sir:

In response to the notice of improper request for continued examination (RCE) (a copy of which is enclosed), applicants hereby include the submission as required by 37 C.F.R. §1.114 which is in compliance with 37 C.F.R. §1.121.

Respectfully submitted,

McDonnell Boehnen Hulbert & Berghoff

Dated: January 17, 2002

By: Amir N. PennAmir N. Penn
Reg. No. 40,767
Attorney for Applicant

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Com sioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 12/3/01 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____, Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

SEE ATTACHED 37 CFR 1.121

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions about this notice to:

Harold Smith, Examining Group 1760

(703) 308 - 4275
FORM PTO-2061 (Rev. 3/2001)

Hon. Commissioner of S/N 09/212,367
Patents and Trademarks
Re: Applicant - David Baunoch, et al.

Atty ANP
Case No. 98,714

Method And Apparatus For Automated Reprocessing Of Tissue Samples

Sir:
Please place the Patent Office receipt stamp hereon and mail to acknowledge receipt of:

- ☒ Transmittal w/duplicate
- ☒ Response to Notice of Improper Request for Continued Examination (RCE)
- ☒ Response to Office Action Dated July 17, 2001
- ☒ Return Receipt Postcard

Fee Enclosed

\$ 0

Mailed: January 17, 2002

Respectfully,
McDonnell Boehnen Hulbert & Berghoff
Attorney for Applicant